

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

and

Case No. 2:73-cv-26

BAY MILLS INDIAN COMMUNITY,
SAULT STE. MARIE TRIBE OF
CHIPPEWA INDIANS, GRAND
TRAVERSE BAND OF OTTAWA AND
CHIPPEWA INDIANS, LITTLE RIVER
BAND OF OTTAWA INDIANS, and LITTLE
TRAVERSE BAY BANDS OF ODAWA
INDIANS,

HON. PAUL L. MALONEY

Plaintiff-Intervenors,

v

STATE OF MICHIGAN, et al.,

Defendants.

**COALITION TO PROTECT MICHIGAN RESOURCES' AND BAY DE NOC GREAT
LAKES SPORTS FISHERMEN'S MOTION FOR RECONSIDERATION**

ORAL ARGUMENT REQUESTED

The Coalition to Protect Michigan Resources (“CPMR”) and Bay de Noc Great Lakes Sports Fisherman (“GLSF”) (jointly, “Proposed Intervenor”) move for reconsideration of the Court’s Opinion and Order Denying Motion to Intervene (ECF 1985, PageID.11662-86, referred to as the “Opinion” hereafter) pursuant to Western District of Michigan Local Rule 7.4¹ to request the Court grant Proposed Intervenor party status pursuant to Fed. R. Civ. P. 24.

1. On August 31, 2022, the Court issued an Opinion and Order denying Proposed Intervenor’s motion to intervene in this matter (“Opinion”). (ECF 1985, PageID.11662-86; see also ECF 1964, PageID.10936-39).

2. Proposed Intervenor asserted in their motion to intervene that they had affidavits they would present to the Court upon consent of the parties or acknowledgment that filing them under seal or via in camera review would not violate the Confidentiality Agreement.

3. The Court’s Opinion is based upon representations of the Parties’ attorneys made during a hearing before the Court on August 25, 2022 (ECF 1984, PageID.11661).²

4. At the August 25, 2022 hearing, Proposed Intervenor attempted to rebut such representations by further offering submission of multiple affidavits supporting the factors of intervention which were not taken up by the Court at the August 25, 2022 hearing.

5. The Parties did not agree to the submission of Proposed Intervenor’s affidavits until the United States attorney acknowledged at the August 25th hearing that such affidavits could be provided to the Court under a motion to seal.

¹ Note that while this Court allows reconsideration under its Local Rules, the Sixth Circuit considers a motion for reconsideration under Fed. R. Civ. P. 59(e). To the extent applicable and consistent with Fed. R. Civ. P. 59(e), Proposed Intervenor have filed this motion within 28 days after entry of the Opinion.

² Proposed Intervenor have requested a transcript on super expedited status, but the transcript was not yet available at the time of filing.

6. The Proposed Intervenors now file this Motion for Reconsideration pursuant to Local Rule 7.4, supported by affidavits evidencing Proposed Intervenors' establishment of the factors for intervention as well as correcting the representations made during the August 25th hearing.


7. Due to the representations of the State at the August 25th hearing, Proposed Intervenors move to have this Court reconsider its Opinion and find that intervention is appropriate because it was misled by representations at the August 25 hearing based on newly available evidence and the need to correct error to prevent manifest injustice.

8. For these reasons and those further detailed in the attached Brief in Support of this Motion, the Court should reconsider its Opinion and grant Proposed Intervenors intervention.

9. Under Local Rule 7.1(d), concurrence in the relief requested was sought but denied by opposing counsel.

Respectfully submitted,

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Dated: September 16, 2022

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CERTIFICATE OF SERVICE

I, Kaylin J. Marshall, hereby certify that on the 16th day of September 2022, I electronically filed the foregoing document with the ECF system which will send notification of such to all parties of record.

/s/ Kaylin J. Marshall
Kaylin J. Marshall